



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,828	12/03/2001	Michael Wayne Brown	AUS920010948US1	3123

7590 01/13/2005
AMY PATTILLO
307 INWOOD ROAD
AUSTIN, TX 78746

EXAMINER

NGUYEN, QUYNH H

ART UNIT	PAPER NUMBER
----------	--------------

2642

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/005,828

Applicant(s)

BROWN ET AL.

Examiner

Quynh H Nguyen

Art Unit

2642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16-20 is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/12/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

2. Claims 1, 8, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rupe et al. (US 2003/0031309).

Regarding claims 1 and 8, Rupe et al. teach the steps of: receiving a call at a call center (page 1, lines 1-3); placing said call on hold in a hold queue until a representative of the call center is available to answer the call (page 2, [0020]); the call may be routed to remote locations in accordance with the assigned priority (page 1, [0010]); detecting the call at the top of the hold queue, notifying the caller an availability of the representative (page 1, [0011] and page 3, [0031]).

However, Rupe et al. do not explicitly suggest transferring the call to an "expert" while the call is on hold in the hold queue.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the voice response unit (VRU) in Rupe's system to be a person or "expert" at the remote locations instead of programmed and automated while on hold so that the on hold caller would have his or her question answered by an "expert" while waiting for an available agent. For example, while waiting on a hold

Art Unit: 2642

queue for an available agent, a caller may chat to other callers who have common interest and who are experts in some areas such as travel, insurance, etc.

Claim 15 is rejected for the same reasons as discussed with respect to claim 1. Furthermore, Rupe et al. teach a recording medium (Fig. 2, 44, 48, and 52).

3. Claims 2-6, and 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rupe et al. (US 2003/0031309) in view of Walker et al. (U.S. Patent 6,125,178).

Regarding claims 2 and 9, Rupe et al. do not teach the expert is at least one from among a freelance expert, a query group expert, and an emergency group expert.

Walker et al. teach while waiting on a hold queue for an available agent, a caller is given an option to "listen in" to other callers ("query group expert") (col. 6, lines 34-37). For example, other callers who are expert in some areas such travel, insurance, etc.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the features mentioned above, as taught by Walker, in Rupe's system in order to allow the on hold caller would have his or her question answer by an expert while waiting for an available agent.

Regarding claims 3 and 10, Walker et al. teach the experts (query group experts / other callers who allow callers to listen in) interacts concurrently with a plurality of callers on hold in the hold queue (col. 6, lines 34-37).

Regarding claims 4 and 11, Rupe et al. do not teach the plurality of callers are on hold in relation to an emergency. It is well known in the art the plurality of callers is on

Art Unit: 2642

hold in relation to an emergency. For example, callers are on hold for air conditioning service on a hot summer day.

Regarding claims 5, 6, 12, and 13, Rupe et al. do not teach the expert receives a question privately from a particular caller and repeats the question and an answer to the plurality of callers and posed by the callers are ordered in a question queue for managing the order the expert answer the questions. Walker et al. teach the caller who is currently talking to an operator is provided the option of maintaining a private call or allows other callers to listen in (col. 6, lines 28-36). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Walker's system so that the expert receives a question privately from a particular caller and repeats the question and an answer to other callers.

4. Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rupe et al. (US 2003/0031309) in view of Walker et al. (U.S. Patent 6,125,178) and further in view of Beyda et al. (U.S. Patent 6,404,873).

Regarding claims 7 and 14, Rupe and Walker do not teach the callers select to be placed in broadcast queue that manages the order in which callers are allowed to broadcast a question to the expert and the plurality of callers.

Beyda et al. teach voice information generated at the main conference is universally transmitted (col. 2, lines 25-29) reads on claims 7 and 14.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Beyda's system so that the callers have option to

Art Unit: 2642

broadcast a question. For example, during the sub conference call, at any point the callers decided to broadcast their conversation or allow other callers to listen in they can do so.

Allowable Subject Matter

5. Claims 16-20 are allowed.

Response to Arguments

6. Applicant's arguments filed 8/19/04 with respect to claims 1-15 have been fully considered but they are not persuasive.

Applicant argues that Rupe et al. teach "Enabling a caller to search through a database of information while waiting on hold" "only provides the caller access to a finite amount of information" (remarks, page 13). This is irrelevant.

Applicant further argues that Rupe et al. do not teach, "transferring the call to remote locations" (remarks, page 14). This is not in the claim. Furthermore, Rupe et al. teach (page 1, [0005] - [0007]) that while waiting on a hold queue for an available agent, he or she may interact with various functions. For example, a caller may chat to other callers who have common interest and who are experts in some areas such as travel, insurance, etc.

Regarding claim 2, Applicant argues that Walker does not teach the element of "query group expert or other elements of claim 2". Examiner respectfully disagrees. Claim 2 recites the language "at least one from among" provides support the Examiner's

Art Unit: 2642

position that the expert is a query group expert. Furthermore, Walker teaches (col. 6, lines 34-37) that a caller is given an option to "listen in" to other callers ("query group expert"). For example, other callers who are expert or knowledgeable in some areas such travel, insurance, etc.

Regarding claim 7 (remarks, page 19), Examiner cites Beyda et al. (col. 2, lines 25-29) that teach voice information generated at the main conference is broadcast to callers to fill in the missing element of broadcasting a question to callers in Walker's system. However, Beyda et al. do not teach a broadcast queue that manages the order in which the caller questions are allowed. Managing the order in which caller questions within a queue are broadcast is well known and the advantage of using it is also well known. For example, broadcasting caller questions in a queue in a first come first serve basis.

Double Patenting

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claims 1, 2, 8, 9, and 15 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2, 5, 6, and 9 of copending Application No. 10/015383. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the instant application present the method for managing an on hold call comprising: receiving a call at a call center from a caller; placing the call on hold in a hold queue until a representative of said call center is available to answer said call. Claims 1, 2, 8, 9, and 15 of the instant application substantially corresponds to claims 1, 2, 5, 6, and 9, respectively, of the copending Application No. 10/015383. The common subject matter claimed above includes: a method for managing an on hold call comprising: receiving a call at a call center from a caller; placing the call on hold in a hold queue until a representative of said call center is available to answer said call; transferring the call to an expert wherein the expert is at least one from among a freelance expert, a query group expert, and an emergency group expert. The different between the instant application and the copending application is in the instant application responsive to detecting the call at the top of the hold queue, notifying the caller of an availability of the representative; while in the copending application offering an incentive to the caller to transfer the call to an expert while the call is on hold such that use of said expert is promoted. It would have been obvious to one of ordinary skill in the art to offer an incentive to the caller to transfer the call to an expert while the call is on hold so that the expert is promoted.

Art Unit: 2642

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quynh H. Nguyen whose telephone number is 703-305-5451. The examiner can normally be reached on Monday - Thursday from 6:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on (703) 305-4731. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

qhn

Quynh H. Nguyen
January 5, 2005



BING Q. BUI
PRIMARY EXAMINER